

Department of State

§ 41.102

necessary for the effective administration of the immigration laws. Extraordinary circumstances shall not be found upon the basis of convenience or financial burden to the alien, the alien's relative, or the alien's employer.

(2) **Nationality**—For purposes of paragraph (b) of this section, a stateless person shall be considered to be a national of the country which issued the alien's travel document.

(e) *Regular visa defined.* “Regular visa” means a nonimmigrant visa of any classification which does not bear the title “Diplomatic” or “Official.” A nonimmigrant visa is issued as a regular visa unless the alien falls within one of the classes entitled to a diplomatic or an official visa as described in § 41.26(c) or § 41.27(c).

(f) *Q-2 nonimmigrant visas.* The American Consulate General at Belfast is designated to accept applications for the Q-2 visa from residents of the geographic area of Northern Ireland. The American Embassy at Dublin is designated to accept applications for Q-2 visas from residents of the geographic area of the counties of Louth, Monaghan, Cavan, Leitrim, Sligo, and Donegal in the Republic of Ireland. Notwithstanding any other provision of this section, an applicant for a Q-2 visa may not apply at any other consular post. Consular officers at the Consulate General at Belfast and at the Embassy at Dublin have discretion to accept applications for Q-2 visas from aliens who are resident in a qualifying geographic area outside of their respective consular districts, but who are physically present in their consular district.

[52 FR 42597, Nov. 5, 1987; 53 FR 9112, Mar. 21, 1988, as amended at 61 FR 1522, Jan. 22, 1996; 61 FR 53058, Oct. 10, 1996; 61 FR 56439, Nov. 1, 1996; 63 FR 671, Jan. 7, 1998; 63 FR 36366, July 6, 1998; 65 FR 14771, Mar. 17, 2000; 66 FR 38542, July 25, 2001; 67 FR 66046, Oct. 30, 2002]

§ 41.102 Personal appearance of applicant.

(a) Except when the requirement of personal appearance has been waived pursuant to paragraph (b), (c), or (d) of this section, each applicant for a nonimmigrant visa who is at least 14 years of age and not more than 79 years of age must personally appear before and

be interviewed by a consular officer, who shall determine on the basis of the applicant's representations, the visa application and other relevant documentation:

(1) The proper nonimmigrant classification, if any, of the alien; and

(2) The alien's eligibility to receive a visa.

(b) Waivers of personal appearance by consular officers. Except as provided in paragraph (e) of this section or as otherwise instructed by the Deputy Assistant Secretary of State for Visa Services, a consular officer may waive the requirement of personal appearance if the consular officer concludes the alien presents no national security concerns requiring an interview and:

(1) Is within a class of nonimmigrants classifiable under the visa symbols A-1, A-2, C-2, C-3 (except attendants, servants, or personal employees of accredited officials), G-1, G-2, G-3, G-4, NATO-1, NATO-2, NATO-3, NATO-4, NATO-5, NATO-6, or is a Taipei Economic and Cultural Representative Office (TECRO) nonimmigrant classifiable under visa symbol E-1, and is seeking a visa in such classification; or

(2) Is an applicant for a diplomatic or official visa as described in § 41.26 or § 41.27 of this chapter; or

(3) Is an applicant who is within 12 months of the expiration of the applicant's previously issued visa and:

(i) Is seeking re-issuance of a nonimmigrant visa in the same classification;

(ii) Is applying at the consular post of the applicant's usual residence; and

(iii) Is an applicant for whom the consular officer has no indication of visa ineligibility or of noncompliance with U.S. immigration laws and regulations.

(c) Waivers of personal appearance in the national interest. Except as provided in paragraph (e) of this section, the Secretary may waive the requirement of personal appearance of an individual applicant or a class of applicants if the Secretary determines that such waiver is in the national interest of the United States.

(d) Waivers of personal appearance in unusual or emergent circumstances. Except as provided in paragraph (e) of

this section, the Deputy Assistant Secretary for Visa Services may waive the requirement of personal appearance of an individual applicant or a class of applicants if the Deputy Assistant Secretary determines that such waiver is necessary as a result of unusual or emergent circumstances.

(e) Cases in which personal appearance may not be waived. Except for a nonimmigrant applicant whose personal appearance is waived under paragraphs (b)(1), (b)(2), or (c) of this section, the personal appearance requirement may not be waived for:

(1) Any nonimmigrant applicant who is not a national or resident of the country in which he or she is applying.

(2) Any nonimmigrant applicant who was previously refused a visa, is listed in CLASS, or otherwise requires a Security Advisory Opinion, unless:

(i) The visa was refused and the refusal was subsequently overcome; or

(ii) The alien was found inadmissible, but the inadmissibility was waived.

(3) Any nonimmigrant applicant who is from a country designated by the Secretary of State as a state sponsor of terrorism, regardless of age, or who is a member of a group or sector designated by the Secretary of State under section 222(h)(2)(F) of the Immigration and Nationality Act.

[80 FR 69589, Nov. 10, 2015]

§41.103 Filing an application.

(a) *Filing an application*—(1) *Filing of application required.* Every alien seeking a nonimmigrant visa must make an electronic application on Form DS-160 or, as directed by a consular officer, an application on Form DS-156. The Form DS-160 must be signed electronically by clicking the box designated “Sign Application” in the certification section of the application.

(2) *Filing of an electronic application (Form DS-160) or Form DS-156 by alien under 16 or physically incapable.* The application for an alien under 16 years of age or one physically incapable of completing an application may be completed and executed by the alien’s parent or guardian, or if the alien has no parent or guardian, by any person having legal custody of, or a legitimate interest in, the alien.

(3) *Waiver of filing of application when personal appearance is waived.* Even if personal appearance of a visa applicant is waived pursuant to 22 CFR 41.102, the requirement for filing an application is not waived.

(b) *Application*—(1) *Preparation of Electronic Nonimmigrant Visa Application (Form DS-160) or, alternatively, Form DS-156.* The consular officer shall ensure that the application is fully and properly completed in accordance with the applicable regulations and instructions.

(2) *Additional requirements and information as part of application.* Applicants who are required to appear for a personal interview must provide a biometric, which will serve to authenticate identity and additionally verify the accuracy and truthfulness of the statements in the application at the time of interview. The consular officer may require the submission of additional necessary information or question an alien on any relevant matter whenever the consular officer believes that the information provided in the application is inadequate to permit a determination of the alien’s eligibility to receive a nonimmigrant visa. Additional statements made by the alien become a part of the visa application. All documents required by the consular officer under the authority of §41.105(a) are considered papers submitted with the alien’s application within the meaning of INA 221(g)(1).

(3) *Signature.* The Form DS-160 shall be signed electronically by clicking the box designated “Sign Application” in the certification section of the application. This electronic signature attests to the applicant’s familiarity with and intent to be bound by all statements in the NIV application under penalty of perjury. Alternatively, except as provided in paragraph (a)(2) of this section, the Form DS-156 shall be signed by the applicant, with intent to be bound by all statement in the NIV application under penalty of perjury.

(4) *Registration.* The Form DS-160 or the Form DS-156, when duly executed, constitutes the alien’s registration for the purposes of INA 221(b).

[73 FR 23068, Apr. 29, 2008]